



Billing Code 4410-31

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

[Docket No. USPC-2016-01]

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: United States Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: The U.S. Parole Commission is adopting a final rule to amend the voting requirements for decisions to terminate a D.C. Code parolee's supervision before the expiration of the sentence. The new rule permits one commissioner to make the decision to terminate parole. The rule currently requires two commissioners to agree to terminate parole early. The Commission is also revising reporting requirements for supervision officers who supervise D.C. Code offenders on parole and supervised release by removing the requirement for reports to be submitted after the completion of 12 months of continuous supervision.

DATES: Effective [insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Helen H. Krapels, General Counsel, Office of the General Counsel, U.S. Parole Commission, 90 K Street, N.E., Washington, D.C. 20530,

telephone (202) 346-7030. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION: Since August 5, 1998, as a result of the National Capital Revitalization and Self-Government Improvement Act of 1997, D.C. Code section 24-131(a)(hereinafter “the Revitalization Act”), the U.S. Parole Commission has had exclusive jurisdiction over District of Columbia Code felony offenders. Before this transfer of jurisdiction, the D.C. Board of Parole had the authority to release a D.C. Code parolee from supervision upon the vote of a majority of the D.C. Board of Parole. For a D.C. Code parolee released from supervision, all conditions of parole would be waived except the condition that the parolee not violate the law or engage in any conduct which might bring discredit to the parole system. The parolee was not, however, released from the custody of the Attorney General or the jurisdiction of the D.C. Board of Parole before the expiration of the sentence, which meant that the D.C. Board of Parole maintained jurisdiction to issue a warrant to return the parolee to custody if, before the expiration of the maximum period of supervision, the parolee committed a new crime or engaged in conduct which might bring discredit to the parole system.

Following the transfer of authority over D.C. Code parolees to the U.S. Parole Commission, the D.C. Council enacted the Equitable Street Time Amendment Act of 2008 (effective May 20, 2009)(hereinafter “the Equitable Street Time Amendment Act”). Section 3(a) of the Equitable Street Time Amendment Act permits the U.S. Parole Commission to terminate legal custody over D.C. Code parolees in a fashion that is similar to the U.S. Parole Commission’s authority to terminate parole for U.S. Code parolees. The Commission promulgated regulations to terminate parole before the expiration of the sentence pursuant to the authority granted under the Revitalization Act. These regulations were similar to the regulations

for early termination of parole for U.S. Code sentenced parolees, but required that two commissioners agree on the decision to terminate supervision early.

With the revision published today, the Commission is establishing an appropriate voting quorum for decisionmaking. The result is consistent with the Commission's goal of achieving greater uniformity in its procedures for all cases under its jurisdiction. One commissioner may make the decision to terminate parole for D.C. Code parolees, as is the procedure for terminating parole for U.S. Code sentenced parolees and terminating supervised release for D.C. Code sentenced offenders on supervised release. Because the revision of the rule will affect only the internal voting procedures of the Commission, and will not implicate the merits of any parolee's case for termination of parole, notice and public comment are not required. 18 U.S.C. section 553(b)(A).

The Commission is also eliminating the requirement that supervision officers provide initial supervision reports for D.C. Code offenders under its jurisdiction 90 days after the parolee has been released from prison and a supervision report after the completion of 12 months of continuous community supervision, and replacing it with the requirement that the supervision officer provide an initial supervision report after the completion of 24 months of continuous supervision. This revision will make the timeframes for submitting the initial supervision report consistent with U.S. Code sentenced parolees. Notice and public comment are not required because the revision of the rule will only affect procedures for submitting reports to the Commission. 18 U.S.C. section 553(b)(A).

Executive Order 13132

These regulations will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, these rules do not have sufficient federalism implications requiring a Federalism Assessment.

Regulatory Flexibility Act

The rules will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

Unfunded Mandates Reform Act of 1995

The rules will not cause State, local, or tribal governments, or the private sector, to spend \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E–Congressional Review Act)

These rules are not “major rules” as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 Subtitle E–Congressional Review Act, now codified at 5 U.S.C. 804(2). The rules will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on the ability of United States-based companies to compete with foreign-based companies. Moreover, these are rules of agency practice or procedure that do not substantially affect the rights or obligations of non-agency parties, and do not come within the meaning of the term “rule” as used

in Section 804(3)(C), now codified at 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

The Final Rule

Accordingly, the U. S. Parole Commission adopts the following amendment to 28 CFR part 2:

PART 2 - [AMENDED]

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Amend §2.74 by revising paragraph (c) to read as follows:

§2.74 Decision of the Commission.

* * * * *

(c) The Commission shall resolve relevant issues of fact in accordance with § 2.19(c). Decisions granting or denying parole shall be based on the concurrence of two Commissioners, except that three Commissioners votes shall be required if the decision differs from the decision recommended by the examiner panel by more than six months. All other decisions, including decisions on revocation and reparole made pursuant to § 2.105(c), and decisions terminating a parolee early from supervision, shall be based on the vote of one Commissioner, except as otherwise provided in this subpart.

3. Revise §2.94 to read as follows:

§2.94 Supervision reports to Commission.

A supervision report shall be submitted by the responsible supervision officer to the Commission for each parolee after the completion of 24 months of continuous supervision and annually

thereafter. The supervision officer shall submit such additional reports and information concerning both the parolee, and the enforcement of the conditions of the parolee's supervision, as the Commission may direct. All reports shall be submitted according to the format established by the Commission.

4. Revise §2.207 to read as follows:

§2.207 Supervision reports to Commission.

A supervision report shall be submitted by the responsible supervision officer to the Commission for each releasee after the completion of 24 months of continuous supervision and annually thereafter. The supervision officer shall submit such additional reports and information concerning both the releasee, and the enforcement of the conditions of the supervised release, as the Commission may direct. All reports shall be submitted according to the format established by the Commission.

Dated: March 4, 2016.

J. Patricia Wilson Smoot,
Chairman, U.S. Parole Commission.

[FR Doc. 2016-05639 Filed: 3/15/2016 8:45 am; Publication Date: 3/16/2016]